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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/522,332	03/09/2000	Tal Lavian	120-467	3280

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McGUINNESS & MANARAS LLP
125 NAGOG PARK
ACTON, MA 01720

EXAMINER

BOUTAH, ALINA A

ART UNIT	PAPER NUMBER
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2143

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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TECHNOLOGY CENTER 2100

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ACTON MA 01720

In re Application of:
TAL LAVIAN et al.
Application No. 09/522,332
Filed: March 9, 2000
For: METHOD AND APPARATUS FOR
ACCESSING NETWORK INFORMATION ON
A NETWORK DEVICE

)
)
) **DECISION ON PETITION**
) **UNDER 37 C.F.R. § 41.3**
)

This is a decision on the petition, filed on 18 September 2007 under 37 C.F.R. § 41.3 requesting the withdrawal of the Notification of Non-Complaint Appeal Brief mailed 23 August 2007

The Petition is **GRANTED**.

RECENT PROSECUTION BACKGROUND

January 17, 2007	After Final Amendment filed. In the amendment, claims 1, 11, 22, 31 and 32 were amended.
April 10, 2007	Advisory Action mailed. Examiner indicated that the After Final Amendment would be entered for purposes of Appeal. The Examiner also indicated that a new search would be required because the claim amendments raised new issues that would require consideration and search.
June 05, 2007	Appeal Brief filed. The Appeal Brief listed the claims as shown in the After Final Amendment.
August 23, 2007	Notice of Non-compliant Brief mailed by the Examiner. The examiner pointed out in the Notice that the listing of claims was inaccurate because the AF Amendment filed January 17, 2007 had not been entered.
September 18, 2007	Petition filed along with a renewed Appeal Brief.

October 18, 2007 Notice of Non-compliance Brief mailed by the examiner. The examiner pointed out in the Notice that the Brief was unsigned.

October 24, 2007 Another renewed Appeal Brief filed, entered and forwarded to the examiner.

ANALYSIS

The question to be addressed is whether the Brief listing the claims as shown in the After Final Amendment is in compliance. MPEP 714.13 [R-5] (II.) states that amendments and other replies After Final rejection cannot be entered as a matter of right; however, an amendment filed at any time after Final rejection, but before an Appeal Brief is filed, may be entered upon or after filing of an appeal brief provided the total effect of the amendment is to (A) remove issues for appeal, and/or (B) adopt examiner suggestions.

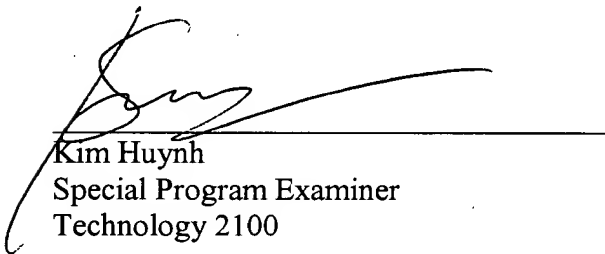
A review of the file record shows that the examiner, in the Advisory Action dated April 4, 2007, stated that the After Final amendment filed January 17, 2007 which claims 1, 11, 22, 31 and 32 were amended amendment would be entered for the purposes of appeal. In response, the Petitioner filed a Brief listing the claims as shown in the After Final amendment in *accordance with the examiner's suggestion*. The examiner's holding of defected Appeal Brief for failure to comply with the provision of 37 CFR § 41.37(c)(1)(viii) is inaccurate.

DECISION

For the above stated reasons, the petition is **GRANTED**. The Notification of Non-complaint Appeal Brief mailed August 23, 2007 is hereby vacated.

The Appeal Brief filed on October 24, 2007, a duplicate of the Appeal Brief filed April 4, 2007, is at issue and has been forwarded to examiner for further action.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-4147.



Kim Huynh
Special Program Examiner
Technology 2100